

REMARKS

Claims 1 through 4 remain pending and stand rejected. Favorable reconsideration of the application in light of the following comments is respectfully solicited.

Claims 1 through 3 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. patent 6,282,164 (Katayama). The claim elements have been compared with the Katayama disclosure at pages 2-4 of the Office Action, with particular focus on Fig. 7 of the reference. The rejection is respectfully traversed.

Independent claims 1 and 3 both recite, *inter alia*, the following:

the second area has periodic structure that is shifted from that of the first area by approximately 90 degrees in the phase of the periodic structure, and
the third area has periodic structure that is shifted from that of the second area by approximately 180 degrees in the phase of the periodic structure.

It is submitted that Fig. 7, and the description at column 10 relied upon in the Office Action for disclosing these claim requirements, only describe that the regions 18a and 18c have phases shifted by $\pi/2$ from the phase of region 18b. There is no teaching or suggestion in Katayama that the second area and third area have an identical phase structure as required by the claims as excerpted above. Claims 1 through 3, therefore, are not anticipated by Katayama.

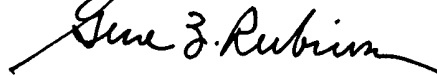
Claim 4 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Katayama in view of published U.S. patent application 2003/0031103 (Kuribayashi), as set forth at pages 4 and 5 of the Office Action. The Office Action recognizes that Katayama does not disclose an amplification factor control means which changes the amplification factor K depending on the interval between the guide grooves of the optical information record medium. Kuribayashi has been relied upon for concluding that it would have been obvious to modify the Katayama device to provide this claimed feature.

The rejection is respectfully traversed. It is submitted that neither Katayama nor Kuribayashi discloses this feature, which is defined in the last paragraph of claim 4. Fig. 3 and the corresponding description in Kuribayashi simply indicate that an offset amount varies dependent on a track pitch when the radial tilt is 1 degree, but does not indicate that the amplification factor K varies dependent on a track pitch, as defined in the claimed invention. Therefore, it is submitted a person of ordinary skill in the art, upon consideration of the combined reference teachings, would have had no motivation for modifying the prior art to include the claimed requirement for adjusting the gain factor K as discussed above.

Accordingly, withdrawal of the rejections and allowance of the application are respectfully solicited. To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

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